



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING SYSTEMS COMMAND
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
33000 NIXIE WAY, BLDG 50 Suite 207
SAN DIEGO, CA 92147

5000-110
Ser BPMOW/249
November 7, 2022

Mr. Jeff Ruch
Public Employees for Environmental Responsibility
962 Wayne Avenue, Suite 610
Silver Spring, MD 20910

Dear Mr. Ruch:

This correspondence is in regard to your Freedom of Information Act (FOIA) request dated December 7, 2018 in which you seek six separately enumerated categories of records related to the Hunters Point Naval Shipyard ("HPNS") located in San Francisco, California.

Your request was received in this office on May 3, 2021 and assigned file number DON-NAVY-2019-001864. Please cite this number in any future communications with our office regarding this request. Your request seeks the following:

A. From January 1, 2005 to the present, all documents that:

- 1. Identify the source(s) of fill or other soil that has been used or may be used in the future for soil covers or caps at Hunters Point Shipyard (i.e., soil covers or caps used as a potential remedy for remediation of contamination);*
- 2. Any measurements made to determine that radionuclide and/or toxic chemical concentrations are acceptable for such use described above;*
- 3. Specify where soil used for soil covers or caps at Hunters Point can come from (e.g., can "clean" soil from parts of HPS be used) and what standards and tests are used to determine it is "clean";*
- 4. Reference any occurrence or proposal whereby soil from within HPS that is declared clean is to be or can be used as "backfill", "fill" or "cover"; and*
- 5. Reference any activities whereby soil was taken from Parcel A or other areas on HPS deemed to be "non-impacted" to be repurposed in any fashion.*

B. All documents from January 1, 2003 to December 31, 2008 that reference any role that Tetra Tech EC played in the preparation of the Final Basewide Radiological Removal Action, Action Memorandum - Revision 2006, Hunters Point Shipyard, San Francisco, CA, April 21, 2006.

A letter dated May 26, 2021 provided a final determination on your FOIA request. A search for responsive records has been completed and approximately 3,455 potentially responsive records have been located. This letter provides the tenth and final release. The nature of this particular FOIA request requires a multi-step search and review process for a reasonable search

of records. For requests with broad scopes, like this one, we first search document repositories using keywords. The results of this search yields “potentially responsive documents.” Some or many of these initial results are found to be not responsive during the subsequent “review” step. Accordingly, broad requests like this can yield a large difference between “potentially responsive records” and “responsive records” which can also lead to longer release timeframes.

Today’s final release addresses 2,030 potentially responsive records, provided as follows:

- 1,897 records were deemed not responsive to the request;
- 18 records are duplicates;
- 59 records are partially withheld under b5 or b6; and
- The 56 remaining records are released to you in full.

The instances of information exempt from disclosure under FOIA Exemptions b(5) and b(6) have been redacted, with the remainder of the document released to you in full.

My review included consideration of the “foreseeable harm standard” (i.e., that information which might technically fall within an exemption should not be withheld from a FOIA requester unless the agency can identify a foreseeable harm or legal bar to disclosure. Under FOIA Exemption 5 [5 U.S.C. § 552 (b)(5)], a federal agency may withhold documents or redact portions of documents pursuant to the deliberative process privilege, which permits withholding of documents reflecting advisory opinions, recommendations, and deliberations comprising the process by which governmental decisions and policies are formulated. The deliberative process privilege encourages agency subordinates to share their views freely with superiors, it protects against premature disclosure of policy that has not yet been finalized, and protects against confusing the public by dissemination of documents suggesting rationales that were not ultimately the basis for agency action. Upon evaluating the documents, I have determined that their release in full would compromise the process by which this agency formulates its policies and decisions.

FOIA Exemption 6 [5 U.S.C. § 552(b)(6)] exempts from disclosure information that, if disclosed, would invade an individual’s personal privacy. Conference call numbers, passcodes and mobile phone numbers were the items redacted from these records. There is no FOIA public interest in disclosure of this type of information that overcomes the privacy interest this exemption is intended to protect.

No fees have been incurred in processing your request.

Appeal Rights

You have the right to an appeal. It must be received (i.e., post-marked if by mail or submitted if by FOIAonline) within 90 calendar days from the date of this letter. Please provide the following in your appeal:

- a letter requesting an appeal. You are encouraged (though not required) to provide an explanation why you believe the redactions were inappropriate or our search was inadequate;
- a copy of your initial request;
- a copy of the letter of denial.

There are two ways to file an appeal—through FOIAonline or by mail.

1. Through FOIAonline. This will work only if you set up an account on FOIAonline before you make the request that you would like to appeal. To set up an account, go to FOIAonline.gov, click “Create Account” (a link located within the blue banner at the top in the upper right corner), enter your data into the field that subsequently appears, and click “Save” (at the bottom left of the screen). With your account thereby created, you will be able to file an appeal on FOIAonline for any request you file on FOIAonline thereafter. To do so, locate your request (enter a keyword or the request tracking number in the “Search for” field on the “Search” tab), click on it, then the “Create Appeal” tab in the left-hand column. Complete the subsequent field, click “Save,” and FOIAonline will submit your appeal.

2. By mail. Address your appeal to:

Department of the Navy
Office of the General Counsel
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

Whichever method is used to file your appeal, please also provide a courtesy copy to us at meredith.l.richards2.civ@us.navy.mil, or:

NAVFAC BRAC PMO West
33000 Nixie Way
Bldg 50 Suite 207
Attn: Meredith Richards
San Diego, CA 92147

You have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at christopher.a.julka.civ@us.navy.mil or 703-697-0031 for assistance with modifying your request. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The

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contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Please direct any questions concerning this matter to Ms. Meredith Richards, who may be contacted at meredith.l.richards2.civ@us.navy.mil or (619) 524-1637.

Sincerely,

KIMBERLY A OSTROWSKI
Director